

REMARKS

After entry of this amendment, claims 1-28 and 30-38 are pending. In the present Office Action, claims 1-23 were rejected under 35 U.S.C. § 101. Claims 1-2, 7-9, 16-19, 23-25, 35, and 38 were rejected under 35 U.S.C. § 102(e) as being anticipated by Chauvel et al., U.S. Patent No. 6,754,781 ("Chauvel"). Claim 29 was rejected under 35 U.S.C. § 102(e) as being anticipated by Richards et al., U.S. Patent Application Publication No. 2003/0097422 ("Richards"). Applicants respectfully traverse these rejections and request reconsideration. Claims 3-6, 10-15, 20-22, 26-28, 30-34, and 36-37 were objected to as being dependent from rejected base claims but would be allowable if rewritten in independent form (and, for claims 3-6, 10-15, and 20-22, if the section 101 rejection were overcome).

Section 101 Rejection

Claims 1-23 were rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. Particularly, the Office Action alleges that the computer accessible medium includes signals, citing the specification, page 24, lines 7-13. (See Office Action, page 2, item 1). Applicants respectfully disagree. The cited portion of the specification includes: "a computer accessible medium may include ... media accessible via transmission media or signals such as electrical, electromagnetic, or digital signals, conveyed via a communication medium such as a network and/or a wireless link." Thus, the specification does not define the computer accessible medium as including signals, but rather media that are accessible via signals. For example, the media may be accessed over a network or wireless link, and thus need not be part of the computer or inserted into the computer to be accessible to the computer. Accordingly, Applicants respectfully submit that the computer accessible medium is statutory.

Allowable Claims

Applicants have rewritten claims 3, 10, and 30 in independent form. Furthermore, claims 3 and 10 are statutory, as highlighted above. Accordingly, Applicants submit that claims 3, 10, and 30 are in condition for allowance. Claims 4-6, (dependent from claim

3), claims 11-12 (dependent from claim 10), and claims 31-34 (dependent from claim 30), are similarly in condition for allowance.

Claims 1-2, 7-9, and 13-28

Applicants respectfully submit that each of claims 1-2, 7-9, and 13-28 recite combinations of features not taught or suggested in the cited art. For example, claim 1 recites a combination of features including: "check a first storage from which a computer system is configured to boot for a block identified in a read request generated on the computer system, wherein the first storage is non-volatile, and wherein the block is included within an image of a set of software resources to be provisioned on the computer system".

The Office Action asserts that Chauvel's cache memory is the first storage, in order to map the other features of claim 1 to the teachings of Chauvel. However, Chauvel's cache is NOT a storage from which the computer system is configured to boot. With regard to such features, the Office Action cites Chauvel, col. 19, line 65. Chauvel does refer to boot code in this line, but does not teach that the Chauvel's system is configured to boot from his cache. Rather, Chauvel teaches: "FIG. 15B is a schematic illustration of operation of the cache memory of FIG. 13 configured partially as a local memory and partially as cache memory. In this case, a portion of the individual valid bits 1682 are flushed with a flush range operation. This can be done as part of a boot code when the system is initialized or under control of the operating system software, for example." (Chauvel, col. 19, lines 61-67). Thus, the reference to boot code cited by the Office Action is describing the boot code initializing the cache memory, not booting from the cache memory. Applicants have further clarified claim 1, reciting "the first storage is non-volatile". Chauvel's cache is volatile.

For at least the above stated reasons, Applicants submit that claim 1 is patentable over the cited art. Claims 2, 7-9, and 13-16, being dependent from claim 1, are similarly patentable over the cited art for at least the above stated reasons as well. Each of claims

2, 7-9, and 13-16 recite additional combinations of features not taught or suggested in the cited art.

Claim 17 recites a combination of features including: "store a block identified in a write request generated within a computer system to a first storage from which the computer system is configured to boot, the block included in an image of a set of software resources that are provisioned on the computer system, wherein the first storage is non-volatile". The same teachings of Chauvel highlighted above with regard to claim 1 are alleged to teach the above highlighted features of claim 17. Applicants respectfully submit that Chauvel does not teach or suggest the above highlighted features of claim 17, either. Thus, Applicants submit that claim 17 is patentable over the cited art. Claims 18-23, being dependent from claim 17, are similarly patentable over the cited art for at least the above stated reasons. Each of claims 18-23 recite additional combinations of features not taught or suggested in the cited art.

Claim 24 recites a combination of features including: "initiating execution of the set of software resources on the computer system prior to storing at least some blocks comprising the set of software resources to a first storage from which the computer system is configured to boot, wherein the first storage is non-volatile". The same teachings of Chauvel highlighted above with regard to claim 1 are alleged to teach the above highlighted features of claim 24. Applicants respectfully submit that Chauvel does not teach or suggest the above highlighted features of claim 24, either. Thus, Applicants submit that claim 24 is patentable over the cited art. Claims 25-28, being dependent from claim 24, are similarly patentable over the cited art for at least the above stated reasons. Each of claims 25-28 recite additional combinations of features not taught or suggested in the cited art.

Claims 35-38

Applicants respectfully submit that each of claims 35-38 recite combinations of features not taught or suggested in the cited art. For example, claim 35 recites a combination of features including: "an image repository computer system configured to

store an image of a set of software resources; and a computer system coupled to communicate with the image repository computer system, wherein the computer system is configured to execute the set of software resources".

The Office Action alleges that the external memory in Chauvel (e.g. Fig. 10 and col. 9, lines 13-17) represents the image repository. Applicants respectfully disagree. With respect to Fig. 10, Chauvel teaches: "Memory 1502 is representative of external memory 132 or on chip external memory 134 (FIG. 1). During a block load operation, a data line is transferred from external memory 1502 to data array 710 under control of FSM 720, as described earlier." (Chauvel, col. 15, lines 54-59). Fig. 1 is a "megacell" that includes a memory controller connected to the external memory 132 and the on chip external memory 134, described as follows: "A direct memory access controller 106 can transfer data between an external source such as off-chip memory 132 or on-chip memory 134 and the shared memory." (Chauvel, col. 4, lines 13-16). From the above, it is clear that the external memory 1502 of Fig. 10 cannot represent the image repository computer system of claim 35.

The cited text from Chauvel, col. 9, lines 13-17, is not related to Fig. 10. Nevertheless, this section teaches: "For example, after a miss at an address location corresponding to line 611, data is accessed from second level memory and placed in line 611, VI bit 610 is set to logical 1, and the requested data is provided to the processor." This has nothing to do with the above highlighted features of claim 35.

For at least the above stated reasons, Applicants submit that claim 35 is patentable over the cited art. Claims 36-38, being dependent from claim 35, are similarly patentable over the cited art for at least the above stated reasons as well. Each of claims 36-38 recite additional combinations of features not taught or suggested in the cited art.

CONCLUSION

Applicants submit that the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5760-16400/LJM.

Also enclosed herewith are the following items:

- Return Receipt Postcard
- Petition for Extension of Time
- Request for Approval of Drawing Changes
- Notice of Change of Address
- Please debit the above deposit account in the amount of \$400 for fees (\$400 for two excess independent claims).
- Other: Information Disclosure Statement

Respectfully submitted,



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